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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/978,602  | 10/16/2001  | Howard L. Vandersall | 41482/25424         | 5279             |
| 21888   | 7590        | 12/23/2003           | EXAMINER            |                  |
| THOMPSON COBURN, LLP<br>ONE US BANK PLAZA<br>SUITE 3500<br>ST LOUIS, MO 63101 |             |                      | TOOMER, CEPHIA D    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1714                |                  |

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



### DETAILED ACTION

This Office action is in response to the remarks filed on September 17, 2003.

The rejections of the claims under 35 USC 103(a) are withdrawn in view of Applicant's arguments.

1. Claims 1, 3, 5, 6, 9, 13, 14, 16-18, 22, 41, 42, 44, 46, 47, 53-55, 57 and 62 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-48 of copending Application No. 09/978,401 as stated in the prior office actions.

Applicant argues that the claims of '401 are broader than those of the present invention and therefore are not encompassed by the present invention. The examiner agrees. However, application '401 contains all of the components of the present invention and is also open to the corrosion inhibitors of the present invention, given that the transitional language of the claim is "comprising". This is shown to be true because several of the dependent claims of '401 recite that a corrosion inhibitor may be included in the composition. The prior art of record also shows that it is conventional to include a corrosion inhibitor in fire retardant compositions. Therefore, it would have been obvious to one of ordinary skill in the art to have included a corrosion inhibitor in the present fire retardant composition to reduce corrosion of the corrodible material used in fighting fires.

2. Claims 2, 4, 7, 8, 10-12, 19-21, 43-45, 48-52 and 58-61 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

Art Unit: 1714

independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 23-33, 35-40, 63-72 and 74-79 are allowable.

The prior art fails to teach or suggest the claimed corrosion inhibitors or their respective concentrates.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

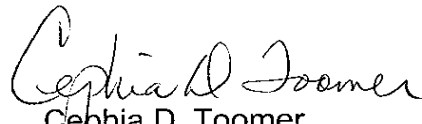
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Application/Control Number: 09/978,602

Page 4

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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